

REMARKS

This Amendment is in response to the Office Action of September 4, 2009 in which claims 1-26 were rejected.

In response to the Office Action, claims 1, 4, 8, 12, 18, and 23 have been amended.

Claims 1, 4, 12, 18 and 23 have been amended to specify that the receiving mobile station is configured to receive only data transmitted from a transmitting device from which there is defined a call divert command to the receiving mobile station. Support for this amendment can be found in the application as filed (WO 2005/081555), including at Figure 1, page 3, lines 10-16 and page 7, lines 28-31.

Claim 1, 4, and 12 have been amended to recite “transmitting the data to a predetermined device,” and remove the phrase “transmitting the data further.”

Claim 8 has been further amended to recite “A memory stored with a transmitting element, identifying element, receiving element and further transmitting elements, wherein said transmitting element, identifying element, receiving element and further transmitting are computer program code stored on said memory for carrying out the method of claim 1, when executed by a processor.”

Claim Rejections- 35 U.S.C. 112

At section 5 of the Office Action, claims 1, 4, 12, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office asserts with the limitation “in case the data transmitting device, from which there is defined a call divert command to the receiving mobile station,”¹ the claims are unclear as to how the a defined call divert command will be received by the mobile device instead of being diverted as to how the claims are stated. Applicant submits that this feature of the claims is definite. If the data transmitting device is identified as one which does not have a defined call divert command to the receiving mobile station, then the data the data transmitting device is transmitting is not actually received by the receiving mobile station. If the data transmitting device is identified as having the defined call divert command to the receiving mobile station, then the mobile station is configured to receive data from the data transmitting device. Thus, the claim clearly recites that the defined call divert

¹ Applicant notes that this limitation as recited in the claims is “in case the data transmitting device is identified as said transmitting device from which there is defined a call divert command to the receiving mobile station.”

command is from the data transmitting device, and the transmitting device is identified by whether or not it comprises the command.

It is also asserted that it is unclear what is meant by “transmitting the data further” in claims 1, 4, 12 and 18. These claims have been amended to remove the term “further,” therefore, it is respectfully submitted that these claims are definite under 35 U.S.C. 112, second paragraph.

With respect to claim 8, it is asserted it is unclear how a memory would have all the elements claimed. Applicant has amended claim 8 to recite a memory stored with a transmitting element, identifying element, receiving element and further transmitting elements, wherein the aforementioned elements are computer program code stored on the memory. Thus, Applicant respectfully submits that claim 8 as amended is in allowable form.

Claim Rejections- 35 U.S.C. 102

At section 7 of the Office Action, claims 1-2, 4, 6-8, 12-17 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Reding et al. (US Patent Publication 2004/0156491) (hereinafter “Reding”).

With respect to claim 1, it is asserted that Reding discloses each feature of the claim, with reference made to Figure 8 and paragraphs [0114], [0115], [0117], and [0121]. Applicant respectfully disagrees.

Claim 1 has been amended to recite that the receiving mobile station is configured to receive only data transmitted from a transmitting device from which there is a defined call divert command to the receiving mobile station. Thus, the only devices that the receiving mobile station can receive data from are those that have a defined call divert command to the receiving mobile station.

It is asserted by the Office in the Response to Arguments section at pages 5-6 of the Office Action that this feature is disclosed by Reding, wherein the Office asserts:

Reding discloses a default handling treatment of forwarding the calls to a particular number when no treatment is specified as well as disclosing ringing the home phone when the call is from a particular contact and only forwarding the call when the call is not answered within a user specified number of rings, therefore when other contacts are calling the home phone and no specific handling treatment is applied to the contacts, the contacts will be forwarded to a particular number and when a particular contact with a specified treatment such as ringing the home phone calls, that particular contact will be able to talk to the user via the home phone.

Applicant respectfully disagrees that these examples in Reding disclose a mobile station configured to receive only data transmitted from a transmitting device from which there is a defined call divert command to the receiving mobile station. Reding states in paragraph [0121], “the user

may desire to have calls to their home phone from a particular contact ring the home phone, but if the home phone is busy or not answered within a specific number of rings then forward the call to the user's cell phone." In this example, under the "default" treatment, a non-specified contact can call the home phone and have the call received by the home phone, but it would not have his or her call automatically forwarded to the user's cell phone because the user has only stated that particular contacts have their calls forwarded within a specific number of rings. Thus, while calls are being diverted from the home phone to the cell phone for particular individuals, neither the home phone or cell phone is configured to only receive calls if they are from a transmitting device from which there is a defined call divert command to the receiving mobile station. The home phone is capable of receiving calls from any contact, as is the cell phone. Reding explicitly states that calls from "particular" contacts are received by the home phone and then forwarded to the cell phone, and there is no reason to infer from this passage of Reding that if, for example, an individual who is or is not a "particular contact" knew that the user was not home, that individual would be unable to directly call the user's cell phone. Thus, both the home phone and cell phone in this cited passage of Reding are configured to receive calls from any user.

Reding also provides in paragraph [0117] that "the user may elect for home phone 114 to ring if no specific treatment is specified. In other examples, the default handling may be set to forward the call to a particular number such as mobile phone or a vacation number, if, for example, the user is on vacation." Similar to the previous example, there is nothing which suggests a particular phone is limited to only receiving calls which are forwarded or diverted to the phone. If the contact knows before calling the home phone that the user is not home or is on vacation, there is nothing disclosed in Reding which prevents the contact from directly calling the mobile phone or vacation number to contact the user. Thus, Reding does not disclose that receiving mobile station is configured to receive only data transmitted from a transmitting device from which there is a defined call divert command to the receiving mobile station.

The Office asserts that the disclosure in Reding of ringing the home phone when a particular contact is calling and forwarding only when the call is not answered but receiving the call when the call is answered to read on "in case the data transmitting device is identified as a transmitting device from which there is defined a call divert command to the receiving mobile station." Applicant respectfully disagrees. If an individual calls the user's home phone and the call is received by the user's home phone, the call cannot be considered to be a result of a "defined call divert command" to the home phone. Rather, it is the calls not received by the home phone that are being diverted in Reding. If calling a user's home phone and having the user receive the call is

considered the result of a “call divert command” to the home phone, then practically every instance in which a person dials and reaches a specific phone number is the result of a “call divert command,” which is not the case.

Therefore, for the foregoing reasons, it is respectfully submitted that claim 1 as amended is not anticipated by Reding and is in allowable form.

For similar reasons, it is respectfully submitted that independent claims 4, 12 and 23 as amended are also not anticipated by Reding and are in allowable form.

Claim Rejections- 35 U.S.C. 103

At section 9 of the Office Action claims 9-11, 18, 20-22 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reding.

Because independent claim 18 as amended comprises features corresponding to those found in amended claim 1, it is respectfully submitted that claim 18 as amended is not rendered obvious by Reding, and is in allowable form.

At least in view of their dependencies on the independent claims, it is respectfully submitted that claims 2, 3, 5-11, 13-17, 19-22 and 24-26 are also in allowable form.

The objections and rejections of the Office Action of September 4, 2009, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 1-26 to issue is solicited.

Respectfully submitted,

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